

Message Text

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ORIGIN ERDA-07

INFO OCT-01 NEA-10 ISO-00 OES-07 L-03 AID-05 IO-14
ACDA-10 NSF-02 JUSE-00 NRC-07 CIAE-00 INR-07
NSAE-00 NSC-05 EB-08 DODE-00 SS-15 SP-02 FEA-01
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TO AMCONSUL BOMBAY PRIORITY
INFO AMEMBASSY NEW DELHI PRIORITY

UNCLAS STATE 216235

E.O. 11652: N/A

TAGS: IN, TECH

SUBJECT: TARAPUR SPENT FUEL FEASIBILITY STUDY

REF: (A) BOMBAY 02091 DTD 8/30/77; (B) STATE 168761

1. USG WISHES TO EXPRESS APPRECIATION FOR PROMPT RESPONSE
BY MR. SHAH TO OUR LAST CABLE AND THE MUTUALLY SATIS-
FACTORY RESOLUTION OF THE INDEMNIFICATION ISSUE REFLECTED
THEREIN. WE HAVE ADDRESSED EACH OF THE OTHER ITEMS
RAISED BY MR. SHAH BELOW AND HOPE THESE ANSWERS WILL
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PERMIT FINAL ACCEPTANCE BY BOTH PARTIES TO THE PROPOSED
AGREEMENT. TO FACILITATE MATTERS WE HAVE UPDATED A COM-
PLETE DRAFT OF THE AGREEMENT AND HAVE ENCLOSED IT AT THE
END OF THIS CABLE.

2. REFTTEL (A) WHICH TRANSMITTED THE TEXT OF A LETTER FROM
J. C. SHAH, CHAIRMAN OF THE ATOMIC POWER AUTHORITY TO
CON. GEN. DATED 8/29/77 HAS BEEN REVIEWED. WE BELIEVE
THAT THE FEW REMAINING ISSUES BROUGHT FORTH BY SHAH IN
HIS LETTER CAN BE READILY RESOLVED. SPECIFICALLY, WE

PROPOSE THE FOLLOWING DISPOSITION OF EACH OF THESE ISSUES:

3. PARAGRAPH (A) OF SHAH LETTER:

THE ORIGINAL WORDING OF REFTTEL (B) FOR TASK (4) OF PHASE I WAS INTENDED TO INCLUDE THE EXAMINATION OF THE SPENT FUEL POOL FACILITY AS IT PRESENTLY EXISTS INCLUDING USED HARDWARE PRESENTLY BEING STORED, AND A DETERMINATION WHETHER OR NOT ACTUAL REMOVAL OF THE HARDWARE FROM THE FACILITY WOULD BE REQUIRED PRIOR TO MODIFICATION OF THE POOL FOR CAPACITY EXPANSION. FEASIBLE APPROACHES FOR DISPOSING OF HARDWARE WHICH WOULD BE REMOVED, WOULD ALSO BE EXAMINED AND REPORTED. HOWEVER, WE DID NOT INTEND THIS EXAMINATION TO GO SO FAR AS TO INCLUDE ACTUAL DESIGN OF EXTERNAL FACILITIES OR THE DESIGN OF NEW FEATURES WITHIN THE EXISTING FACILITY TO ACCOMMODATE THE STORAGE OF USED HARDWARE. ALTHOUGH WE RECOGNIZE THAT SOME ACCOMMODATION OF SUCH HARDWARE MUST BE MADE, WE DO NOT INTEND THIS STUDY EFFORT TO INVOLVE ACTUAL DESIGN WORK FOR FACILITIES WHICH WOULD EFFECT SUCH ACCOMMODATION. RATHER THAN INSERTING THE WORD "METHOD" AS PROPOSED BY SHAH WHICH, WE BELIEVE, NOW IMPLIES "DESIGN" IN THE CONTEXT OF THESE WRITTEN DISCUSSIONS, WE PROPOSE THE LANGUAGE MODIFICATION FOR UNCLASSIFIED

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TASK (4) AS PRESENTED HEREAFTER IN THIS TEXT. THIS WORDING INCLUDES THE ACTUAL RECOMMENDATION OF FEASIBLE OPTIONS FOR ALTERNATIVE DISPOSITION OF USED HARDWARE IF SUCH IS NEEDED.

4. ITEM B IN MR. SHAH'S LETTER REQUESTS THAT WE ADD THE PHRASE "WITH PROPER CONSIDERATION OF FACTORS SUCH AS STRUCTURAL ADEQUACY AND NUCLEAR SAFETY OF THE EXPANDED FUEL POOL" TO TASK 5 PHASE 1. THIS IS ACCEPTABLE TO THE USG AND IS REFLECTED IN THE REVISED TEXT INCLUDED HERewith.

5. ITEM C OF MR. SHAH'S LETTER RECOMMENDS SUBSTITUTING THE WORD "SHALL" IN LIEU OF "MAY" IN THE SECOND SENTENCE OF PHASE 2 IN ORDER TO MAKE DEFINITIVE THE TASKS TO ACCOMPLISH THE PHASE. ERDA IS CONCERNED THAT THIS CHANGE WOULD BE COUNTERPRODUCTIVE TO THE GOALS OF THE STUDY BY BEING POTENTIALLY RESTRICTIVE. IT IS THE INTENT OF THE USG TO PROVIDE SUCH WORK UNDER PHASE 2 AS IS DEEMED APPROPRIATE UPON CONCLUSION OF PHASE 1. THIS MAY INCLUDE ALL OF THE PRESENT "TENTATIVE" PHASE 2 OR PARTS THEREOF PLUS ADDITIONAL TASKS NOT PRESENTLY KNOWN. WE DO NOT BELIEVE IT APPROPRIATE TO TIE DOWN THE TASKS TOO SPECIFICALLY UNTIL GOI/USG HAVE THE RESULTS OF PHASE 1 AND CAN OBJECTIVELY EVALUATE THE PHASE 2 NEEDS. WE ANTICIPATE THAT THE GOI WILL REVIEW THE PHASE 1 RESULTS AND THEN RECOMMEND A DEFINITIVE SCOPE FOR PHASE 2. WE HOPE THAT BY MAKING THE PRESENT PHASE 2 FLEXIBLE, IT

WILL PROVIDE THE GOI A MORE RESPONSIVE FINAL REPORT.

6. THE LAST PARAGRAPH OF MR. SHAH'S LETTER AGAIN RAISES THE "OF/FOR" ISSUE. ERDA'S POSITION ON THIS IS UNCHANGED. ERDA'S '77 BUDGET AUTHORIZATION IS LIMITED TO RD AND D ACTIVITIES SUCH AS EXPLORING FEASIBILITY OF ENHANCING EXISTING STORAGE CAPACITY AT TARAPUR. THUS ERDA CANNOT BE PARTY TO AN AGREEMENT WHICH IMPLICITLY SUPPORTS CONSTRUCTION OF A NEW FACILITY AT TARAPUR OR ELSEWHERE
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BECAUSE IT WOULD BE AN IMPROPER USE OF APPROPRIATED FUNDS. WE DO, HOWEVER, APPRECIATE MR. SHAH'S CONCERN. IN RESPONSE TO THAT CONCERN, THE U.S. NOTES THAT THE GOI'S USE OF THE REPORT IS LIMITED ONLY BY CLAUSES 7 AND 8 AS WELL AS OTHER RELEVANT PARTS OF THE AGREEMENT AND GOI'S USES OF THE REPORT FOR PURPOSES NOT EXPLICITLY MENTIONED IN THE AGREEMENT ARE NOT SUBJECT TO ADDITIONAL CONSTRAINTS.

7. ASSUMING ACCEPTANCE OF THIS DRAFT OF THE AGREEMENT WITHIN THE NEXT FEW WEEKS AND SUBSEQUENT RAPID SIGNING OF SAME, THE USG CAN HAVE ITS CONTRACTOR BEGIN THE STUDY WITHIN ONE WEEK OF THE SIGNING. GOI CAN BE ASSURED THAT USG IS AWARE OF NEED FOR IMMEDIATE ACTION AND WILL PROCEED ACCORDINGLY. FOLLOWING IS THE COMPLETE TEXT OF THE PROPOSED FEASIBILITY STUDY AGREEMENT AS REVISED:

8. QUOTE--AGREEMENT BETWEEN THE UNITED STATES ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION ACTING ON BEHALF OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA HEREIN-- AFTER REFERRED TO AS ERDA WHICH EXPRESSIONS SHALL INCLUDE ITS SUCCESSORS AND ASSIGNS AND THE PRESIDENT OF INDIA ACTING THROUGH THE DEPARTMENT OF ATOMIC ENERGY (DAE) OF THE GOVERNMENT OF INDIA, HEREINAFTER CALLED GOI WHICH EXPRESSION SHALL, UNLESS REPUGNANT TO THE CONTEXT, INCLUDE HIS SUCCESSORS AND ASSIGNS.

WHEREAS THE GOVERNMENT OF THE UNITED STATES AND THE GOVERNMENT OF INDIA HAVE BEEN CO-OPERATING IN THE CIVIL USES OF ATOMIC ENERGY PURSUANT TO AN AGREEMENT FOR COOPERATION WHICH WAS ENTERED INTO AND WHICH IS IN FORCE FROM OCTOBER 25, 1963;

WHEREAS THE PARTIES OF THIS AGREEMENT CONSIDER IT DESIRABLE
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THAT A STUDY OF THE POTENTIAL AND METHOD OF INCREASING THE SPENT FUEL STORAGE CAPACITY OF THE TARAPUR ATOMIC POWER STATION SHOULD BE CONDUCTED;

AND WHEREAS ERDA IS WILLING TO PERFORM SUCH A STUDY: ON THE GOI AGREEING TO MAKE AVAILABLE TO ERDA REPORTS RELATING TO APPLICATION AND USE OF THE INFORMATION PROVIDED BY ERDA AND ITS CONTRACTOR UNDER THIS AGREEMENT;

AND WHEREAS ERDA HAS AUTHORITY TO ENGAGE IN SUCH ACTIVITIES UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED AND THE ENERGY REORGANIZATION ACT OF 1974 BOTH OF UNITED STATES OF AMERICA, NOW THEREFORE, ERDA AND THE GOVERNMENT OF INDIA AGREE AS FOLLOWS:

9. CLAUSE 1: ERDA, IF NECESSARY THROUGH OR WITH THE ASSISTANCE OF ITS CONTRACTORS WILL CONDUCT A STUDY COVERING THE FEASIBILITY AND METHOD FOR INCREASING THE SPENT FUEL STORAGE CAPACITY OF THE TARAPUR ATOMIC POWER STATION. THE SCOPE OF THE STUDY SHALL BE AS FOLLOWS:

PHASE I: TO DETERMINE THE PRELIMINARY FEASIBILITY OF INCREASING THE SPENT FUEL STORAGE CAPACITY AT THE TARAPUR STATION BY ACCOMPLISHING THE FOLLOWING TASKS: (1) REVIEW OF THE SPENT FUEL POOL SYSTEM DESIGN AND ARCHITECT-ENGINEER'S AS-BUILT DRAWINGS PERTAINING TO THE TARAPUR STATION; (2) INITIAL VISIT BY QUALIFIED TECHNICIANS TO THE TARAPUR STATION (GOI WILL ASSIST ERDA IN SECURING TRAVEL AND LIVING ARRANGEMENTS AT THE TARAPUR SITE FOR ITS REPRESENTATIVES AND REPRESENTATIVES OF ITS CONTRACTORS AND SUBCONTRACTORS); (3) REVIEW OF RELATED TECHNICAL INFORMATION TO BE PROVIDED, AS MAY BE APPROPRIATE, BY ERDA, THE TARAPUR STATION PERSONNEL, THE INDIAN ATOMIC ENERGY COMMISSION AND BY ANY OTHER AGENCY OF THE GOVERNMENT OF INDIA; SUCH INFORMATION WILL INCLUDE, BUT NOT BE LIMITED TO, REMAINING SPENT FUEL STORAGE CAPACITY, UNCLASSIFIED

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A PROJECTION OF FUEL STORAGE NEEDS, AND STRUCTURAL, SEISMIC AND CRITICALITY ANALYSES PERFORMED SINCE PLANT START-UP, ANY PLANT OPERATIONAL CONSTRAINTS INCLUDING REQUIREMENTS FOR STORAGE OF OTHER IRRADIATED MATERIAL; (4) REVIEW OF THE ADEQUACY OF THE TARAPUR STATION'S EXISTING FUEL POOL COOLING SYSTEM TO ACCOMMODATE A GREATER AMOUNT OF SPENT FUEL, AND REVIEW OF USED HARDWARE PRESENTLY BEING STORED IN THE SPENT FUEL POOLS, IF ANY, TO RECOMMEND OPTIONS FOR ALTERNATIVE DISPOSITION OF SUCH HARDWARE PRIOR TO A POSSIBLE FUTURE IMPLEMENTATION OF POOL CAPACITY EXPANSION; (5) ASSESSMENT OF THE FEASIBILITY OF EXPANDING THE SPENT FUEL STORAGE CAPACITY; (6) IF UNDER TASK 5, IT IS DETERMINED THAT EXPANSION OF THE SPENT FUEL STORAGE CAPACITY IS FEASIBLE, DEFINE THE SCOPE OF WORK UNDER "PHASE II" INCLUDING APPROACHES, SCHEDULES, AND COST ESTIMATES; (7) PREPARATION OF A REPORT OF THE FINDING AND RESULTS OF TASKS 1 THROUGH 6.

PHASE II: TO PROVIDE A MORE DETAILED BASIS FOR MEETING

SPENT FUEL STORAGE NEEDS AT THE TARAPUR STATION. TASKS TO ACCOMPLISH THIS OBJECTIVE MAY INCLUDE SUCH WORK AS: (1) EXTENSION OF WORK PERFORMED UNDER PHASE I IN QUALIFYING AND FURTHER DEFINING THE ALTERNATIVES FOR INCREASING THE CAPACITY OF THE TARAPUR STATION'S EXISTING SPENT FUEL POOL; (2) DEVELOPMENT OF ENGINEERING MATERIAL, DRAWINGS, SPECIFICATIONS, AND CRITERIA DESCRIBING THE PROPOSED ALTERNATIVES AND RECOMMENDATIONS COVERING THIS APPLICATION; (3) DEFINITION OF THE REQUIRED PROCEDURES, MATERIALS, TOOLS, SPECIAL EQUIPMENT AND SERVICES IN THE APPLICATION OF THE PROPOSED NEW STORAGE SYSTEM; (4) ESTIMATION OF THE COST, SCHEDULE, AND CAPACITY INCREASE IN MODIFYING THE EXISTING FUEL POOL IN ACCORDANCE WITH THE RECOMMENDATIONS FOR STORAGE SYSTEM ALTERNATIVES; (5) UPON COMPLETION OF THE ABOVE MENTIONED STUDY, ERDA UNCLASSIFIED

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WILL PROVIDE GOI WITH A REPORT OF ITS FINDINGS AND CONCLUSIONS. THE REPORT WILL BE COMPLETED AS SOON AS POSSIBLE CONSISTENT WITH THE NEED FOR ACCURACY AND COMPLETENESS.

10. CLAUSE 2: THE GOI AGREES TO AFFORD FULL ACCESS CONSISTENT WITH THE NEEDS OF THIS AGREEMENT BY AUTHORIZED ERDA REPRESENTATIVES INCLUDING ITS CONTRACTORS AND SUB-CONTRACTORS TO TARAPUR ATOMIC ENERGY POWER STATION. GOI ALSO AGREES TO PROVIDE ERDA AND ITS AUTHORIZED REPRESENTATIVES WITH OPERATING DATA, TECHNICAL SPECIFICATIONS, AND OTHER INFORMATION NECESSARY AND PERTINENT TO THE PERFORMANCE OF THE STUDY TO THE EXTENT AVAILABLE WITH DAE OF THE GOI. FURTHERMORE, GOI AGREES TO SUPPLY ERDA AND ITS REPRESENTATIVES WITH SEISMIC DATA AND RELATED INFORMATION NECESSARY AND PERTINENT TO THE PERFORMANCE OF THE STUDY TO THE EXTENT AVAILABLE WITH DAE OF THE GOI.

11. CLAUSE 3: ALTHOUGH ERDA WILL EXERCISE EVERY REASONABLE EFFORT TO COMMENCE AND COMPLETE THE STUDY, GOI AGREES THAT, IN THE EVENT ERDA IS UNABLE FOR ANY REASON TO COMMENCE OR COMPLETE STUDY, ERDA WILL INCUR NO LIABILITY WHATSOEVER AS A RESULT THEREOF.

12. CLAUSE 4: ERDA WILL BEAR ALL COST OF THE STUDY EXCEPT THAT THE GOI WILL PROVIDE WITHOUT CHARGE TO ERDA SEISMIC INFORMATION AND OTHER NECESSARY AND PERTINENT DATA WHICH IS IN THE POSSESSION OF THE GOI. MOREOVER, GOI WILL MAKE AVAILABLE FOR CONSULTATION AND ASSISTANCE TO THE EXTENT POSSIBLE UPON REQUEST BY ERDA KNOWLEDGEABLE SCIENTIFIC AND TECHNICAL PERSONNEL TO ASSIST ERDA REPRESENTATIVES IN PERFORMING THE STUDY.

13. CLAUSE 5: THE APPLICATION OF SUCH INFORMATION PROVIDED UNDER CLAUSE 1 ABOVE SHALL BE THE RESPONSIBILITY

OF THE GOI AND ERDA DOES NOT WARRANT THE ACCURACY AND
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COMPLETENESS OF SUCH INFORMATION AND DOES NOT WARRANT
THE SUITABILITY OF SUCH INFORMATION FOR ANY PARTICULAR
USE OR APPLICATION BUT THE REPORT TO BE PROVIDED UNDER
THIS AGREEMENT WILL DISCUSS THE RELATIONSHIP OF THE
RECOMMENDATIONS CONTAINED THEREIN TO APPLICABLE US
CRITERIA.

14. CLAUSE 6: IF THE GOI MAKES USE OF THE INFORMATION
SUPPLIED IN THE STUDY BY INSTALLING EQUIPMENT OR
MODIFYING TARAPUR'S SPENT FUEL STORAGE FACILITIES, IT
WILL PROVIDE ERDA WITH A FULL REPORT OF SUCH INSTALLA-
TION AND WILL ALSO PROVIDE PERIODIC OPERATIONAL REPORTS
CONTAINING TECHNICAL DATA RELATING TO THE EMPLOYMENT OF
THE INFORMATION PROVIDED IN THE STUDY.

15. CLAUSE 7: PATENTS

(A) WITH RESPECT TO ANY INVENTION OR DISCOVERY WHICH IS
MADE OR CONCEIVED DURING THE PERIOD OF, AND IN THE COURSE
OF OR UNDER THIS AGREEMENT, ERDA ON BEHALF OF THE
UNITED STATES GOVERNMENT, AND GOI HEREBY AGREE THAT:

(1) IF MADE OR CONCEIVED BY PERSONNEL OF ERDA OR ITS
CONTRACTORS DURING THE COURSE OF THIS STUDY: A. THE
UNITED STATES GOVERNMENT SHALL ACQUIRE ALL RIGHTS, TITLE
AND INTERESTS IN AND TO ANY SUCH INVENTION OR DISCOVERY
IN ITS OWN COUNTRY AND IN ALL THIRD COUNTRIES PRO-
VIDED HOWEVER THAT THE GOI SHALL BE GRANTED A NONEXCLUSIVE
IRREVOCABLE PAID-UP LICENSE, WITH THE RIGHT TO GRANT SUB-
LICENSES THEREUNDER; AND B. THE GOVERNMENT OF INDIA
SHALL ACQUIRE ALL RIGHT, TITLE AND INTEREST IN AND TO ANY
SUCH INVENTION OR DISCOVERY IN ITS OWN COUNTRY, PROVI-
DED HOWEVER THAT ERDA SHALL RECEIVE A NONEXCLUSIVE,
IRREVOCABLE, PAID-UP LICENSE, WITH THE RIGHT TO GRANT
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SUB-LICENSES THEREUNDER. (2) IF MADE OR CONCEIVED BY
PERSONNEL OF ERDA OR THE GOI OR THEIR CONTRACTORS OTHER
THAN IN ACCORDANCE WITH SUBPARAGRAPH (1) ABOVE WHEN
EMPLOYING INFORMATION WHICH HAS BEEN COMMUNICATED UNDER
THIS AGREEMENT, THE CONTRACTING PARTY MAKING THE INVEN-
TION OR DISCOVERY SHALL ACQUIRE ALL RIGHT, TITLE AND
INTEREST IN AND TO ANY SUCH INVENTION OR DISCOVERY IN
ALL COUNTRIES, PROVIDED HOWEVER THAT THE OTHER CONTRACT-
ING PARTY SHALL BE GRANTED A NONEXCLUSIVE IRREVOCABLE,
PAID-UP LICENSE, WITH THE RIGHT TO GRANT SUB-LICENSES
THEREUNDER.

(B) NEITHER THE UNITED STATES NOR GOI SHALL DISCRIMINATE

AGAINST CITIZENS OF THE OTHER WITH RESPECT TO GRANTING
ANY LICENSE OR SUB-LICENSE UNDER ANY INVENTION PURSUANT
TO SUBPARAGRAPHS (A) (1) AND (A) (2) ABOVE.

(C) THE UNITED STATES AND THE GOI SHALL EACH ASSUME
THE RESPONSIBILITY TO PAY AWARDS OR COMPENSATION REQUIRED
TO BE PAID ITS EMPLOYEES ACCORDING TO THE LAWS OF ITS
COUNTRY.

16. CLAUSE 8: EXCHANGE OF INFORMATION

(A) FOR THE PURPOSE OF THIS EXCHANGE OF INFORMATION
ARTICLE, ERDA SHALL BE DEEMED TO INCLUDE ITS CONTRACTORS
AND SUBCONTRACTORS AND GOI SHALL BE DEEMED TO INCLUDE ITS
CONTRACTORS AND SUBCONTRACTORS.

(B) NEITHER ERDA NOR GOI SHALL EXCHANGE PROPRIETARY
INFORMATION UNLESS SUCH INFORMATION IS SPECIFICALLY
IDENTIFIED AS SUCH AND ITS USE AGREED UPON BY ERDA AND
GOI. IN THE EVENT SUCH AN EXCHANGE DOES OCCUR, ERDA
AND GOI SHALL TAKE ALL NECESSARY STEPS TO PROTECT
PROPRIETARY INFORMATION IN ACCORDANCE WITH PARAGRAPH D
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BELOW AND IN ACCORDANCE WITH THE LAWS OF THEIR RESPEC-
TIVE COUNTRIES AND WITH INTERNATIONAL LAW.

(C) IN GENERAL, INFORMATION EXCHANGED IN CONNECTION WITH
THIS AGREEMENT MAY BE MADE AVAILABLE FOR PUBLIC DISSEMIN-
ATION WITH MUTUAL CONSENT. HOWEVER, IT IS RECOGNIZED
THAT CERTAIN INFORMATION MADE AVAILABLE MAY CONTAIN
INDUSTRIAL PROPERTY OF A PROPRIETARY NATURE. SUCH PROP-
ERTY, WHICH MAY INCLUDE TRADE SECRETS, INVENTIONS,
PATENT INFORMATION AND "KNOWHOW", AND WHICH WAS ACQUIRED
BY EITHER ERDA OR GOI PRIOR TO OR OUTSIDE THE COURSE OF
ACTIVITIES CONDUCTED UNDER THIS AGREEMENT, SHALL BE
DEFINED FOR THE PURPOSE OF THIS AGREEMENT AS INFORMATION
WHICH: 1. IS OF A TYPE CUSTOMARILY HELD IN CONFIDENCE
BY COMMERCIAL FIRMS; 2. IS NOT GENERALLY KNOWN OR
PUBLICLY AVAILABLE FROM OTHER SOURCES; 3. HAS NOT PRE-
VIOUSLY BEEN MADE AVAILABLE TO OTHERS BY THE PARTY
SUPPLYING IT EXCEPT UNDER AN AGREEMENT PROTECTING ITS
CONFIDENTIALITY; AND 4. IS NOT ALREADY IN THE POSSESSION
OF THE RECIPIENT PARTY OR ITS CONTRACTOR.

(D) INDUSTRIAL PROPERTY OF A PROPRIETARY NATURE, AS
DEFINED BELOW, SHALL BE RESPECTED BY THE RECIPIENT PARTY,
SHALL NOT BE USED FOR COMMERCIAL PURPOSES, AND SHALL NOT,
EXCEPT AS MAY BE REQUIRED BY THE LAWS APPLICABLE TO ERDA
AND GOI, BE MADE PUBLIC WITHOUT THE CONSENT OF THE PARTY

ORIGINATING, OWNING, OR HAVING RIGHTS TO SUCH INDUSTRIAL

PROPERTY. INDUSTRIAL PROPERTY OF A PROPRIETARY NATURE WHICH IS EXCHANGED SHALL BE CLEARLY MARKED BY THE SENDING PARTY. DISSEMINATION OF SUCH INFORMATION WILL BE LIMITED TO: (1) PERSONS WITHIN OR EMPLOYED BY THE RECIPIENT PARTY'S GOVERNMENT; AND (2) PRIME OR SUBCONTRACTORS OF UNCLASSIFIED

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THE RECIPIENT PARTY'S GOVERNMENT FOR USE ONLY WITHIN THE FRAMEWORK OF ITS CONTRACTS RELATING TO THE SUBJECT MATTER OF THE INFORMATION SO DISSEMINATED. ERDA AND GOI SHALL EACH EXERCISE ITS BEST EFFORTS TO ENSURE THAT DISSEMINATION OF INDUSTRIAL PROPERTY OF A PROPRIETARY NATURE RECEIVED UNDER THIS AGREEMENT IS CONTROLLED AS PRESCRIBED HEREIN.

CLAUSE 8 E: WITH RESPECT TO INFORMATION WHICH IS PROPRIETARY TO ERDA'S CONTRACTORS, GOI AGREES THAT, IN ADDITION TO ACCORDING SUCH INFORMATION THE PROPRIETARY TREATMENT DESCRIBED IN SECTION D. ABOVE, IT WILL NOT USE SUCH INFORMATION FOR ANY PURPOSE OTHER THAN OF INCREASING THE SPENT FUEL STORAGE CAPACITY OF THE TARAPUR STATION. BEFORE USING SUCH INFORMATION (OR PROCURING OTHERS TO USE IT ON GOI'S BEHALF) FOR ANY OTHER PURPOSE GOI MUST FIRST ENTER INTO AN AGREEMENT WITH THE ERDA CONTRACTOR WHO IS THE PROPRIETOR OF SUCH INFORMATION PERMITTING SUCH USE.

17. CLAUSE 9: GOVERNMENT OF INDIA AGREES TO INDEMNIFY AND HOLD HARMLESS ERDA, THE GOVERNMENT OF THE UNITED STATES OF AMERICA, PERSONS ACTING ON THEIR BEHALF, AND THE CONTRACTORS AND SUBCONTRACTORS OF ERDA AGAINST ANY AND ALL DAMAGES, LIABILITIES, OR COSTS INCURRED BY THE GOVERNMENT OF INDIA OR ANY OTHER PERSON WHICH MAY ARISE FROM THE USE OR APPLICATION OF THE INFORMATION PROVIDED BY ERDA OR SUCH CONTRACTORS OR SUBCONTRACTORS UNDER THIS AGREEMENT. THIS INDEMNITY SHALL APPLY TO ALL CLAIMS, INCLUDING THOSE BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, WARRANTY OR OTHERWISE, ASSERTED AGAINST ERDA, ITS CONTRACTORS OR SUBCONTRACTORS. GOVERNMENT OF INDIA ACKNOWLEDGES THAT ERDA'S CONTRACTORS AND SUBCONTRACTORS WILL NOT BE DENIED THE RIGHT TO PROCEED DIRECTLY AGAINST GOVERNMENT OF INDIA IN RESPECT TO THESE INDEMNITY RIGHTS. THIS INDEMNITY WILL NOT APPLY UNCLASSIFIED

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TO ANY LIABILITY FOR VIOLATION BY THE GOVERNMENT OF INDIA OF PROPRIETARY RIGHTS OR PATENT RIGHTS WITH RESPECT TO ANY PROPRIETARY OR PATENTED INFORMATION PROVIDED BY ERDA

OR SUCH CONTRACTORS OR SUBCONTRACTORS WHICH PROPRIETARY OR PATENTED INFORMATION HAS NOT BEEN SO IDENTIFIED.

18. CLAUSE 10: NO MEMBER OF OR DELEGATE TO THE CONGRESS OF THE UNITED STATES OF AMERICA OR RESIDENT COMMISSIONER

OF THE UNITED STATES OF AMERICA SHALL BE ADMITTED TO ANY SHARE OR PART OF THIS CONTRACT OR TO ANY BENEFIT THAT MAY ARISE THEREFROM BUT THIS PROVISION SHALL NOT BE CONSTRUED TO EXTEND TO THIS CONTRACT IF MADE WITH A CORPORATION FOR ITS GENERAL BENEFIT.

19. CLAUSE 11: THE GOVERNMENT OF INDIA WARRANTS THAT NO PERSON OR SELLING AGENCY HAS BEEN EMPLOYED OR RETAINED TO SOLICIT OR SECURE THIS CONTRACT UPON AN AGREEMENT OR UNDERSTANDING FOR A COMMISSION, PERCENTAGE, BROKERAGE, OR CONTINGENT FEE, EXCEPTING BONAFIDE EMPLOYEES OR BONAFIDE ESTABLISHED COMMERCIAL OR SELLING AGENCIES MAINTAINED BY THE GOVERNMENT OF INDIA FOR THE PURPOSE OF SECURING BUSINESS, FOR BREACH OR VIOLATION OF THIS WARRANTY THE U.S. GOVERNMENT SHALL HAVE THE RIGHT TO ANNUL THIS CONTRACT WITHOUT LIABILITY OR IN ITS DISCRETION TO RECOVER THE FULL AMOUNT OF SUCH COMMISSION, PERCENTAGE, BROKERAGE, OR CONTINGENT FEE.

20. CLAUSE 112 ARBITRATION

EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED IN THIS AGREEMENT, ALL DISPUTES CONCERNING QUESTIONS OF FACT WHICH MAY ARISE UNDER THIS AGREEMENT AND WHICH ARE NOT DISPOSED OF UNCLASSIFIED

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BY MUTUAL AGREEMENT, SHALL BE REFERRED TO ARBITRATION BY A BOARD COMPOSED OF THREE ARBITRATORS. ONE OF SUCH ARBITRATORS SHALL BE APPOINTED BY ERDA, ONE SHALL BE APPOINTED BY GOI AND THE THIRD ARBITRATOR SHALL BE SELECTED BY THE FIRST TWO. IN THE EVENT THAT THE FIRST TWO ARBITRATORS SO SELECTED ARE UNABLE TO AGREE UPON THE THIRD ARBITRATOR, THEN THE ADMINISTRATOR OF ERDA AND THE CHAIRMAN OF THE ATOMIC ENERGY COMMISSION OF INDIA SHALL MUTUALLY AGREE UPON AND DESIGNATE THE PERSON TO ACT AS THIRD ARBITRATOR.

THE ARBITRATION PROCEEDINGS SHALL BE IN ACCORDANCE WITH THE RULES ESTABLISHED BY THE AMERICAN ARBITRATION ASSOCIATION FOR COMMERCIAL ARBITRATION. THE DECISION OF A MAJORITY OF THE ARBITRATORS ON THE ARBITRATION SHALL BE FINAL AND BINDING. ALLOCATION OF THE COSTS OF ARBITRATION SHALL BE AS DETERMINED BY THE BOARD OF ARBITRATORS, PROVIDED HOWEVER, THAT NEITHER PARTY SHALL BE OBLIGED TO PAY THE COSTS OF THE OTHER PARTY'S ARBITRATOR.

21. CLAUSE L413 THE SIGNATORIES TO THIS AGREEMENT
REPRESENT THAT THEY HAVE COMPLETE AUTHORITY TO COMMIT
THEIR RESPECTIVE GOVERNMENTS TO ALL THE UNDERTAKINGS SET
FORTH IN THIS AGREEMENT.

22. CLAUSE 14 THIS CONTRACT SHALL BE CONSTRUED ACCORD-
ING TO THE LAWS APPLICABLE IN THE FEDERAL COURTS OF THE
UNITED STATES OF AMERICA FOR CONTRACTS IN THE UNITED
STATES OF AMERICA TO WHICH THE GOVERNMENT OF THE UNITED
STATES OF AMERICA IS A PARTY.

(DATE) TITLE ERDA, ON BEHALF OF THE UNITED STATES OF
AMERICA

(DATE) TITLE, FOR AND ON BEHALF OF THE PRESIDENT OF
INDIA. UNQUOTE. VANCE
UNCLASSIFIED

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Message Attributes

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Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1098769
Secure: OPEN
Status: NATIVE
Subject: TARAPUR SPENT FUEL FEASIBILITY STUDY
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